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| 10/710,587 | 07/22/2004 | Steven E. Field | 71202-0044 | 4372 |
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| MCGARRY BAIR PC 32 Market Ave. SW SUITE 500 GRAND RAPIDS, MI 49503 | | | EXAMINER TOWA, RENE T | |
| | | | ART UNIT 3736 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/710,587

Applicant(s)

FIELD ET AL.

Examiner

Rene Towa

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>10/25/04, 10/29/04</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS OF 12/29/05</u> |

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities:
at line 1, the limitation "laterally" should apparently read --lateral--.
Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4-6, 9-10 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Barsch (US 6,234,177).

In regards to claim 1, Barsch disclose(s) a marking apparatus for the percutaneous placement of an imaging marker 42 at a predetermined location in a tissue mass to facilitate subsequent determination of the predetermined location, the marking apparatus comprising:

- a handle to be grasped by a user;
- a cannula 60 comprising:
 - a peripheral wall 62 forming a lumen 64,

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a proximal end carried by the handle,
a distal end terminating in a self-piercing tip, and
a lateral opening 22 in the peripheral wall 62, which is open to the lumen 64;
a plunger 52 having a distal end 54 and slidably received within the lumen 64 for movement between a ready position, where the distal end is spaced inwardly from the self-piercing tip to form a marker recess in communication with the lateral opening 22 and sized to receive an imaging marker 42, and an expelled position, where the distal end is advanced a sufficient distance into the marker recess to expel a marker 42 contained therein through the lateral opening 22 (see figs. 4A-C & 5-6; column 3/lines 7-41; column 4/lines 23-53; column 6/lines 3-15; column 7/lines 16-28).

In regards to claim 2, Barsch disclose(s) a marking apparatus, and further comprising at least one imaging marker 42 contained within the marker recess (see figs 5-6).

In regards to claim 4, Barsch disclose(s) a marking apparatus, wherein the handle, cannula 60, and plunger 52 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to effect operation of the marking apparatus from the ready position to an expelled position (see figs. 4C-6).

In regards to claim 5, Barsch disclose(s) a marking apparatus, wherein the cannula 60 is rigid (see figs. 4C-6).

In regards to claim 6, Barsch disclose(s) a marking apparatus wherein the distal end of the cannula 60 is pointed to form the self-piercing tip (see figs. 4C-6).

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In regards to claim 9, Barsch disclose(s) a marking apparatus wherein the distal end of the cannula 60 is pointed to form the self-piercing tip (see figs. 4C-6).

In regards to claim 10, Barsch disclose(s) a marking apparatus and further comprising a ramp 54 on the plunger 52 to aid in expelling an imaging marker 42 (see figs. 4C-6; column 5/lines 65-67).

In regards to claim 13, Barsch disclose(s) a marking apparatus wherein a ramp 54 is located on the distal end of the plunger 52 (see figs. 4C-6; column 5/lines 65-67).

In regards to claim 14, Barsch disclose(s) a marking apparatus, wherein the handle, cannula 60, and plunger 52 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to effect operation of the marking apparatus from the ready position to an expelled position (see figs. 4C-6).

In regards to claim 15, Barsch disclose(s) a method for percutaneously placing a marker 42 at a predetermined location in a tissue mass using a self-piercing, side-ejecting, self-contained marking apparatus comprising a cannula 60 defining a lumen 64 and terminating in a self-piercing tip, with a lateral opening 22 in communication with the lumen 64, and a plunger 52 slidably received within the lumen 64 for expelling a marker 42 in the lumen 64 through the lateral opening 22, the method comprising:

inserting the cannula 60 into the tissue mass by puncturing an exterior of the tissue mass with the self-piercing tip; and

expelling the marker 42 through the lateral opening 22 by sliding the plunger 52 within the lumen 64 (see figs. 4A-C & 5-6; column 3/lines 7-41; column 4/lines 23-53; column 5/lines 65-67; column 6/lines 3-15; column 7/lines 16-28).

In regards to claim 16, Barsch disclose(s) a method wherein the inserting step comprises locating the lateral opening 22 near a predetermined location 30 in the tissue mass where it is desired to be marked (see figs. 4C-6).

In regards to claim 17, Barsch disclose(s) a method wherein the lateral opening 22 is located beneath the predetermined location 30 (see figs. 4C-6).

4. Claims 1-6, 9-12 and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Burbank et al. (US 6,725,083).

In regards to claim 1, Burbank et al. disclose(s) a marking apparatus for the percutaneous placement of an imaging marker 10 at a predetermined location in a tissue mass to facilitate subsequent determination of the predetermined location, the marking apparatus comprising:

- a handle 56 to be grasped by a user;
- a cannula 7 comprising:
 - a peripheral wall forming a lumen,
 - a proximal end carried by the handle 56,
 - a distal end terminating in a self-piercing tip, and
 - a lateral opening 9 in the peripheral wall, which is open to the lumen;
- a plunger 54 having a distal end and slidably received within the lumen for movement between a ready position, where the distal end is spaced inwardly from the

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self-piercing tip to form a marker recess in communication with the lateral opening 9 and sized to receive an imaging marker 10, and an expelled position, where the distal end is advanced a sufficient distance into the marker recess to expel a marker 10 contained therein through the lateral opening 9 (see fig. 6; column 11/lines 6-67; column 12/lines 1-4).

In regards to claim 2, Burbank et al. disclose(s) a marking apparatus, and further comprising at least one imaging marker 10 contained within the marker recess (see fig. 6).

In regards to claim 3, Burbank et al. disclose(s) a marking apparatus, and further comprising multiple imaging markers 10 contained within the marker recess (see fig. 6).

In regards to claim 4, Burbank et al. disclose(s) a marking apparatus, wherein the handle 56, cannula 7, and plunger 54 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to effect operation of the marking apparatus from the ready position to an expelled position (see fig. 6).

In regards to claim 5, Burbank et al. disclose(s) a marking apparatus, wherein the cannula 7 is rigid (see fig. 6).

In regards to claim 6, Burbank et al. disclose(s) a marking apparatus wherein the distal end of the cannula 7 is pointed to form the self-piercing tip (see fig. 6).

In regards to claim 9, Burbank et al. disclose(s) a marking apparatus wherein the distal end of the cannula 7 is pointed to form the self-piercing tip (see fig. 6).

In regards to claim 10, Burbank et al. disclose(s) a marking apparatus and further comprising a ramp on the cannula 7 to aid in expelling an imaging marker 10 (see fig. 6).

In regards to claim 11, Burbank et al. disclose(s) a marking apparatus wherein a ramp is located in the lumen adjacent the lateral opening 9 (see fig. 6).

In regards to claim 12, Burbank et al. disclose(s) a marking apparatus wherein the distal end of the plunger 54 is flexible and is deflectable toward the lateral opening 9 by the ramp when the plunger 54 is moved to the expelled position (see fig. 6).

In regards to claim 14, Burbank et al. disclose(s) a marking apparatus, wherein the handle 56, cannula 7, and plunger 54 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to effect operation of the marking apparatus from the ready position to an expelled position (see fig. 6).

In regards to claim 15, Burbank et al. disclose(s) a method for percutaneously placing a marker 10 at a predetermined location 4 in a tissue mass using a self-piercing, side-ejecting, self-contained marking apparatus comprising a cannula 7 defining a lumen and terminating in a self-piercing tip, with a lateral opening 9 in communication with the lumen, and a plunger 54 slidably received within the lumen for expelling a marker 10 in the lumen through the lateral opening 9, the method comprising:

inserting the cannula 7 into the tissue mass by puncturing an exterior of the tissue mass with the self-piercing tip; and

expelling the marker 10 through the lateral opening 9 by sliding the plunger 54 within the lumen (see fig. 6; column 11/lines 6-67; column 12/lines 1-4).

In regards to claim 16, Burbank et al. disclose(s) a method wherein the inserting step comprises locating the lateral opening 9 near a predetermined location 4 in the tissue mass where it is desired to be marked (see fig. 6).

In regards to claim 17, Burbank et al. disclose(s) a method wherein the laterally opening is located beneath the predetermined location 4 (see fig. 6).

In regards to claim 18, Burbank et al. disclose(s) a method wherein the expelling step comprises expelling multiple markers 10 into the tissue mass (see fig. 6).

In regards to claim 19, Burbank et al. disclose(s) a method wherein at least one of the multiple markers 10 is expelled at a different location in the tissue mass than another of the multiple markers 10 (see fig. 6).

Since two markers cannot occupy the same space at the same time, Burbank et al. inherently teach a method step wherein at least one of the multiple markers 10 is expelled at a different location in the tissue mass than another of the multiple markers 10.

5. Claims 1-6, 9-11 and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones et al. (US 2004/0236212).

In regards to claim 1, Jones et al. disclose(s) a marking apparatus for the percutaneous placement of an imaging marker 15 at a predetermined location in a tissue mass to facilitate subsequent determination of the predetermined location, the marking apparatus comprising:

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a handle 20 to be grasped by a user;

a cannula 11 comprising:

a peripheral wall forming a lumen 12,

a proximal end carried by the handle 20,

a distal end terminating in a self-piercing tip 23, and

a lateral opening 17 in the peripheral wall, which is open to the lumen 12;

a plunger 13 having a distal end and slidably received within the lumen 12 for movement between a ready position, where the distal end is spaced inwardly from the self-piercing tip 23 to form a marker recess in communication with the lateral opening 17 and sized to receive an imaging marker 15, and an expelled position, where the distal end is advanced a sufficient distance into the marker recess to expel a marker 15 contained therein through the lateral opening 17 (see figs. 1A & 3; par 0012, 0015, 0025, 0027, 0028 & 0033).

In regards to claim 2, Jones et al. disclose(s) a marking apparatus, and further comprising at least one imaging marker 15 contained within the marker recess (see figs. 1A & 3).

In regards to claim 3, Jones et al. disclose(s) a marking apparatus, and further comprising multiple imaging markers 15 contained within the marker recess (see figs. 1A & 3).

In regards to claim 4, Jones et al. disclose(s) a marking apparatus, wherein the handle 20, cannula 11, and plunger 13 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to

effect operation of the marking apparatus from the ready position to an expelled position (see figs. 1A & 3).

In regards to claim 5, Jones et al. disclose(s) a marking apparatus, wherein the cannula 11 is rigid (see figs. 1A & 3).

In regards to claim 6, Jones et al. disclose(s) a marking apparatus wherein the distal end of the cannula 11 is pointed to form the self-piercing tip 23 (see figs. 1A & 3).

In regards to claim 9, Jones et al. disclose(s) a marking apparatus wherein the distal end of the cannula 11 is pointed to form the self-piercing tip 23 (see figs. 1A & 3).

In regards to claim 10, Jones et al. disclose(s) a marking apparatus and further comprising a ramp 24 on the cannula 11 to aid in expelling an imaging marker 15 (see figs. 1A & 3).

In regards to claim 11, Jones et al. disclose(s) a marking apparatus wherein a ramp 24 is located in the lumen 12 adjacent the lateral opening 17 (see figs. 1A & 3).

In regards to claim 14, Jones et al. disclose(s) a marking apparatus, wherein the handle 20, cannula 11, and plunger 13 are operably coupled such that they form a self-contained marking apparatus that can be easily and conveniently handled by a user to effect operation of the marking apparatus from the ready position to an expelled position (see figs. 1A & 3).

In regards to claim 15, Jones et al. disclose(s) a method for percutaneously placing a marker 15 at a predetermined location in a tissue mass using a self-piercing, side-ejecting, self-contained marking apparatus comprising a cannula 11 defining a lumen 12 and terminating in a self-piercing tip 23, with a lateral opening 17 in

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communication with the lumen 12, and a plunger 13 slidably received within the lumen 12 for expelling a marker 15 in the lumen 12 through the lateral opening 17, the method comprising:

inserting the cannula 11 into the tissue mass by puncturing an exterior of the tissue mass with the self-piercing tip 23; and

expelling the marker 15 through the lateral opening 17 by sliding the plunger 13 within the lumen 12 (see figs. 1A & 3; par 0012, 0015, 0025, 0027, 0028 & 0033).

In regards to claim 16, Jones et al. disclose(s) a method wherein the inserting step comprises locating the lateral opening 17 near a predetermined location in the tissue mass where it is desired to be marked (see figs. 1A & 3).

In regards to claim 17, Jones et al. disclose(s) a method wherein the lateral opening 17 is located beneath the predetermined location (see figs. 1A & 3).

In regards to claim 18, Jones et al. disclose(s) a method wherein the expelling step comprises expelling multiple markers 15 into the tissue mass (see figs. 1A & 3).

In regards to claim 19, Jones et al. disclose(s) a method wherein at least one of the multiple markers 15 is expelled at a different location in the tissue mass than another of the multiple markers 15 (see figs. 1A & 3).

Since two markers cannot occupy the same space at the same time, Jones et al. inherently teach a method step wherein at least one of the multiple markers 15 is expelled at a different location in the tissue mass than another of the multiple markers 15.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barsch ('177) in view of Joishy (US 5,012,818).

In regards to claim 8, Barsch disclose(s) a marking apparatus and further comprising a ramp on the plunger 52 to aid in expelling an imaging marker 42 (see figs. 4C-6; column 5/lines 65-67).

Barsch discloses a system, as described above, that teaches all the limitations of the claim except for a 13-gage cannula.

However, Joishy discloses a system comprising a 13-gage cannula 1 (see figs. 1-2; column 7/lines 64-68; column 8/lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch with a 13 gage cannula similar to that of Joishy in order to provide, a small, less invasive cannula that minimizes patient discomfort.

8. Claims 3, 11-12 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barsch ('177) in view of Burbank et al. ('083).

Barsch discloses a system, as described above, that teaches all the limitations of the claim except for a ramp located on the lumen adjacent the lateral opening or multiple markers.

However, Burbank et al. disclose(s) a system wherein a ramp is located in the lumen adjacent the lateral opening 9; wherein the expelling step comprises expelling multiple markers 10 into the tissue mass; wherein the distal end of the plunger 52 is flexible and is deflectable toward the lateral opening 22 by the ramp when the plunger 52 is moved to the expelled position.

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch with a ramp adjacent the lateral opening similar to that of Burbank et al. since such a modification will serve the same purpose of biasing the marker outside the cannula.

Moreover, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch with multiple markers similar to that of Burbank et al. since such a modification will serve the same purpose of marking the biopsy site. Furthermore, it has previously been held that merely duplicating a part (i.e. the number of markers) for a multiple effect is not patentable--See *In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960).

Even moreover, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch with a flexible plunger similar to that of Burbank et al. since such a modification will serve the same purpose of expelling the marker from the device.

Even moreover yet, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch as modified by Burbank et al., above, with a step of marking multiple locations since

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such a modification will serve the same purpose of marking a biopsy site at predetermined location. It has previously been held that merely duplicating a part (i.e. the steps of marking a biopsy site) for a multiple effect is not patentable--See *In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960).

9. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burbank et al. ('083) in view of Joishy (US 5,012,818).

In regards to claim 8, Burbank et al. disclose(s) a marking apparatus and further comprising a ramp on at least one of the plunger 54 and cannula 7 to aid in expelling an imaging marker 10 (see fig. 6).

Burbank et al. discloses a system, as described above, that teaches all the limitations of the claim except for a 13-gage cannula.

However, Joishy discloses a system comprising a 13-gage cannula 1 (see figs. 1-2; column 7/lines 64-68; column 8/lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Burbank et al. with a 13 gage cannula similar to that of Joishy in order to provide, a small, less invasive cannula that minimizes patient discomfort.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burbank et al. ('083) in view of Barsch ('177).

Burbank et al. discloses a system, as described above, that teaches all the limitations of the claim except for a ramp located on the distal end of the plunger.

However, Barsch disclose(s) a marking apparatus wherein a ramp 54 is located on the distal end of the plunger 52.

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Burbank with a ramp on the distal end of the plunger similar to that of Barsch since such a modification will serve the same purpose of biasing the marker outside the cannula.

11. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. ('212) in view of Joishy (US 5,012,818).

In regards to claim 8, Jones et al. disclose(s) a marking apparatus and further comprising a ramp 24 on at least one of the plunger 13 and cannula 11 to aid in expelling an imaging marker 15 (see figs. 1A & 3).

Jones et al. discloses a system, as described above, that teaches all the limitations of the claim except for a 13-gage cannula.

However, Joishy discloses a system comprising a 13-gage cannula 1 (see figs. 1-2; column 7/lines 64-68; column 8/lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Jones et al. with a 13 gage cannula similar to that of Joishy in order to provide, a small, less invasive cannula that minimizes patient discomfort.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. ('212) in view of Burbank et al. ('083).

Jones et al. discloses a system, as described above, that teaches all the limitations of the claim except for a flexible plunger.

However, Burbank et al. disclose(s) a system wherein the distal end of the plunger 52 is flexible and is deflectable toward the lateral opening 22 by the ramp when the plunger 52 is moved to the expelled position (see fig. 6).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Barsch with a flexible plunger similar to that of Burbank et al. since such a modification will serve the same purpose of expelling the marker from the device.

13. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. ('212) in view of Barsch ('177).

Jones et al. discloses a system, as described above, that teaches all the limitations of the claim except for a ramp located on the distal end of the plunger.

However, Barsch disclose(s) a marking apparatus wherein a ramp 54 is located on the distal end of the plunger 52 (see figs. 4C-6).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Jones et al. with a ramp on the distal end of the plunger similar to that of Barsch since such a modification will serve the same purpose of biasing the marker outside the cannula.

Conclusion

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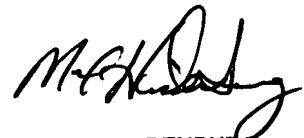
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Towa whose telephone number is (571) 272-8758.

The examiner can normally be reached on M-F, 8:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RTT/


MAX E. HINDENBURG
SUPERVISORY PATENT EXAMINER
ELECTRONIC BUSINESS CENTER 3700



European Patent
Office

EUROPEAN SEARCH REPORT

Application Number
EP 05 01 5367

| DOCUMENTS CONSIDERED TO BE RELEVANT | | | |
|--|--|---|---|
| Category | Citation of document with indication, where appropriate, of relevant passages | Relevant to claim | CLASSIFICATION OF THE APPLICATION (Int.Cl.7) |
| X | WO 2004/045444 A (INRAD, INC; CHESBROUGH, RICHARD, M; FIELD, STEVEN, E; GOOSEN, RYAN, L) 3 June 2004 (2004-06-03) * page 5, paragraph 1-4 * * claim 45 * * figures 1,2,6A * | 1-4,7,8, 10 | A61B19/00 A61M25/01 |
| Y | | 5,6,9 | |
| X | WO 96/08208 A (BIOPSY MEDICAL, INC) 21 March 1996 (1996-03-21) * page 1, lines 1-4 * * page 21, line 25 - page 23, line 12 * * figure 16 * | 1-4,7,8, 10 | |
| Y | WO 98/06346 A (BIOPSY MEDICAL, INC) 19 February 1998 (1998-02-19) * page 8, line 19 - page 12, line 10 * * figures 3,4 * | 5 | |
| A | | 1,3,4, 8-10 | |
| Y | US 6 234 177 B1 (BARSCH THOMAS) 22 May 2001 (2001-05-22) * column 1, lines 6-66 * * column 5, lines 56-67 * * figures 4C-6 * | 6 | TECHNICAL FIELDS SEARCHED (Int.Cl.7) A61B A61M |
| A | | 1,3,5,8, 10 | |
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| A | | 1 | |
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